

UNITED STATES OF AMERICA )  
 vs. ) CR. NO. 2:95CR174-WHA  
 DARRYL ELLIS ) (wo)

This cause is before the court on the Defendant's Motion for Early Termination of Probation (Doc. #783).

The Defendant, Darryl Ellis, was convicted at trial on August 14, 1996 of conspiracy to possess with intent to distribute cocaine and cocaine base, possession with intent to distribute, and aiding and abetting. He was sentenced on November 26, 1996 to a statutory mandatory sentence of life imprisonment and also a ten-year term of supervised release. (Doc. #419). In August of 2016, his sentence was reduced due to a grant of executive clemency, leaving intact the ten-year term of supervised release. (Doc. #782). He is being supervised by the probation department in the Southern District of Florida. In his motion, he points out that other co-defendants in his case have received early termination of supervised release. He argues that because he has complied with all of the terms and conditions of supervision, has good family support, has completed an outpatient drug treatment program, and is employed, early termination of his supervised release is warranted.

In response to this court's Order, the Probation Officer of the Middle District of Alabama, in consultation with the Probation Officer of the Southern District of Florida, filed a response to Ellis's motion. (Doc. #785). The Probation Officer concurs that Ellis has complied

with the conditions of his supervised release, but cautions that his criminal history requires additional supervision. The Probation Officer represents that under a Monograph, which gives guidance for supervision of federal offenders, Ellis would not be recommended for early termination of supervised release because he has not served 18 months on supervision and he was determined at sentencing to be a Career Offender. The Probation Officer further states that Ellis would not be eligible for early termination of supervised release in the Southern District of Florida, based on the supervising district's guidelines. The Probation Officer expresses concern, based on Ellis's Career Offender status, for deterrence of criminal conduct and protection of the public from future crimes.

The United States, in its Response filed with the court (Doc. #786), states that based on the representations of the Probation Officer and the facts of the case, it objects to early termination of supervised release.

Under 18 U.S.C. § 3553(e)(1), the court may, after considering the factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(C), (a)(2)(D), (a)(4), (a)(5), (a)(6), and (a)(7)--

- (1) terminate a term of supervised release and discharge the defendant released at any time after the expiration of one year of supervised release, pursuant to the provisions of the Federal Rules of Criminal Procedure relating to the modification of probation, if it is satisfied that such action is warranted by the conduct of the defendant released and the interest of justice.

*See also United States v. Johnson*, 877 F.3d 993, 998 (11th Cir. 2017).

Ellis has served one year of supervised release, so the court may terminate supervised release after consideration of the appropriate factors. It is commendable that Ellis has complied with the conditions of his supervised release, and has taken steps to become a productive citizen. The court concurs with the opinion of the Probation Officer, however, that it is too early to

consider termination of supervision at this time. In light of the record in this case, including the Motion and the responses to it from the Probation Officer and the United States, and considering the relevant factors, specifically, the Career Offender status of Ellis, the need to afford adequate deterrence to criminal conduct, and the need to protect the public from future crimes of the defendant, the court concludes that the Motion is due to be DENIED at this time.

DONE this 7th day of March, 2018.

/s/ W. Harold Albritton  
W. HAROLD ALBRITTON  
SENIOR UNITED STATES DISTRICT JUDGE